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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2012-125**

12 **ORILYNN TUNACAO GIRON, a.k.a.**
13 **ORILYNN GIRON-ROXAS**
120 Hemmingway Commons
Martinez, CA 94543
14 **Registered Nurse License No. 626516**

ACCUSATION

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing (Board),
21 Department of Consumer Affairs.

22 2. On or about September 22, 2003, the Board issued Registered Nurse License Number
23 626516 to Orilynn Tunacao Giron, a.k.a. Orilynn Giron-Roxas (Respondent). The Registered
24 Nurse License was in full force and effect at all times relevant to the charges brought herein and
25 will expire on May 31, 2013, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

"(3) The use of advertising relating to nursing which violates Section 17500.

...

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

...."

6. Section 2798 of the Code provides, in pertinent part: "It is unlawful for anyone to conduct a school of nursing unless the school has been approved as an accredited school by the board."

7. Section 675 of the Code states:

"Every person, firm, association, partnership, or corporation offering a course of instruction in any type of nursing, including vocational nursing or practical nursing, which course of instruction is not accredited by the Board of Registered Nursing or by the Board of Vocational Nursing and Psychiatric Technicians and completion of which will not qualify a person to take any examination given by either board shall notify an applicant for admission thereto that the

1 course of instruction is not accredited by either board and that completion thereof will not qualify
2 the person to take any examination given by either board.

3 The notice required by this section shall be in writing in at least 12-point boldface type, and
4 in no event less than two points larger than the type in any other portion of the notice or contract,
5 and shall be given to an applicant prior to the signing of any contract by the applicant or, if no
6 contract is signed, prior to the making of any deposit or other payment by the applicant.

7 If an applicant is required to sign a contract in order to enroll in the course of instruction,
8 the notice required by this section shall be contained in the contract directly above the place for
9 the applicant's signature."

10 8. Section 17500 of the Code states:

11 "It is unlawful for any person, firm, corporation or association, or any employee thereof
12 with intent directly or indirectly to dispose of real or personal property or to perform services,
13 professional or otherwise, or anything of any nature whatsoever or to induce the public to enter
14 into any obligation relating thereto, to make or disseminate or cause to be made or disseminated
15 before the public in this state, or to make or disseminate or cause to be made or disseminated
16 from this state before the public in any state, in any newspaper or other publication, or any
17 advertising device, or by public outcry or proclamation, or in any other manner or means
18 whatever, including over the Internet, any statement, concerning that real or personal property or
19 those services, professional or otherwise, or concerning any circumstance or matter of fact
20 connected with the proposed performance or disposition thereof, which is untrue or misleading,
21 and which is known, or which by the exercise of reasonable care should be known, to be untrue or
22 misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so
23 made or disseminated any such statement as part of a plan or scheme with the intent not to sell
24 that personal property or those services, professional or otherwise, so advertised at the price
25 stated therein, or as so advertised. Any violation of the provisions of this section is a
26 misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a
27 fine not exceeding two thousand five hundred dollars (\$2,500), or by both that imprisonment and
28 fine."

9. Section 118, subdivision (b) of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued, or reinstated.

COSTS

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FACTUAL BACKGROUND

11. In or around 2007, Respondent advertised a licensed vocational nurse to bachelor of science in nursing program (hereinafter "LVN-BSN program"). Respondent also directly solicited and/or recruited numerous licensed vocational nurses to participate in the LVN-BSN program. Respondent informed prospective students of the following: (1) the LVN-BSN program would be approximately 18 months in length; (2) the cost of the program would be approximately \$22,000; (3) there were no prerequisites for the program (other than being a licensed vocational nurse); (4) classes would be held once a week for four hours at a hotel or at a nursing school in Concord, California; (5) upon completion of the program, a nursing college in the Philippines would grant students a bachelor of science degree in nursing; and (6) after receiving their bachelor of science degree in nursing through the program, students would be eligible to apply to take the registered nurse exam in California.

12. In or around 2007 and 2008, various students enrolled in the LVN-BSN program. The students paid Respondent thousands of dollars to enroll in the program, and Respondent accepted their payments. Respondent conducted, organized, planned, administered, and/or taught courses for the LVN-BSN program in California and/or the Philippines.

13. The LVN-BSN program is not, and never has been, approved or accredited by the Board of Registered Nursing as a program for training students to become registered nurses. Consequently, persons who complete the LVN-BSN program are not eligible to apply to take the registered nurse exam in California, and therefore are not eligible for licensure as registered

nurses under Business and Professions Code section 2736.

14. At no point did Respondent inform the LVN-BSN program students, either orally or in writing, that the LVN-BSN program was not accredited by the Board, or that completion of the program would not qualify them to take any examination given by the Board.

15. On or about October 15, 2007, the Board sent a letter to Respondent that stated, in pertinent part: "The Board of Registered Nursing (BRN) has received information indicating that you are operating an unaccredited registered nursing program and/or an unapproved distance learning program. . . . A search of our records indicates that the above listed program is not an accredited school of nursing nor does it appear that your school is exempt under [Business and Professions Code] Section 2789. Therefore, you are directed to immediately CEASE and DESIST all advertising, course instruction, and any other activities related to pre-licensure registered nursing education until such time that you have both applied and been approved to operate a[] nursing school under applicable California laws and regulations."

16. On or about October 22, 2007, Respondent wrote a letter to the Board in response to the Board's October 15 letter. In her letter, Respondent stated the following: "American College of Nursing (ACN) only operates vocational nursing program and does not operate any registered nursing programs or distance learning programs as your letter stated. . . . As part of our expansion in the nearest future, we plan to add an accelerated LVN to BSN bridge program into our list of courses. We are currently studying our options and deciding on a strategic alliance with a degree granting institution ACN intends to continue to comply with the law If in fact, ACN is in violation of any laws, ACN intends to fully cooperate with the BRN in ceasing those activities and taking all steps as directed in your letter."

17. After sending the Board the letter on October 22, 2007, Respondent continued to conduct, organize, plan, administer, and/or teach courses for the LVN-BSN program in California and/or the Philippines. She also continued to accept thousands of dollars in payments from students.

18. On or about March 25, 2010, Respondent signed a declaration under penalty of perjury that states, in pertinent part: "There was an attempt to start LVN-BSN program w/ PLT

1 College around Feb-March 2007 but the BRN did not respond w/ letter/ courtesy call/ So
2 program was aborted even before it started. Those who gave downpayment during info session,
3 moneys were returned by Orilyn Giron Roxas. I don't recognized the receipt \$3,000.00 and it is
4 not my penmanship or signature. I don't recognized the receipt for \$1,000 (4) payments April
5 May June July 2007 and it is not my signature nor penmanship."

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Conducting an Unaccredited School of Nursing)**

8 19. Respondent is subject to disciplinary action under section 2798 of the Code in that
9 she conducted a school of nursing that was not approved as an accredited school by the Board.
10 The circumstances of Respondent's conduct are set forth above in Paragraphs 11 through 14 and
11 17.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct)**

14 20. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the
15 Code for unprofessional conduct in that she misrepresented to the Board that she was not
16 operating an unaccredited registered nursing program and/or an unapproved distance learning
17 program. The circumstances of Respondent's conduct are set forth above in Paragraphs 15 and
18 16.

19 21. Respondent is further subject to disciplinary action under section 2761, subdivision
20 (a) of the Code for unprofessional conduct in that she falsely stated under penalty of perjury that
21 she never started the LVN-BSN program. The circumstances of Respondent's conduct are set
22 forth above in Paragraph 18.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct – Failure to Notify)**

25 22. Respondent is subject to disciplinary action under sections 675 and 2761, subdivision
26 (a) of the Code for unprofessional conduct in that Respondent failed to inform the LVN-BSN
27 program students, either orally or in writing, that the LVN-BSN program was not accredited by
28 the Board, and that completion of the program would not qualify them to take any examination

1 given by the Board. The circumstances of Respondent's conduct are set forth above in
2 Paragraphs 13 and 14.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Advertising that Violates Section 17500)**

5 23. Respondent is subject to disciplinary action under section 2761, subdivision (a)(3) of
6 the Code in that she used advertising relating to nursing that violated Business and Professions
7 Code section 17500. The circumstances of Respondent's conduct are set forth above in
8 Paragraphs 11, 13, and 14.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(Violating Provisions of the Nursing Practice Act)**

11 24. Respondent is subject to disciplinary action under section 2761, subdivision (d) of the
12 Code in that she violated sections 2761, subdivisions (a) and (a)(3), and 2798 of the Code. The
13 circumstances of Respondent's conduct are set forth above in Paragraphs 11 through 18.

14 **PRAYER**

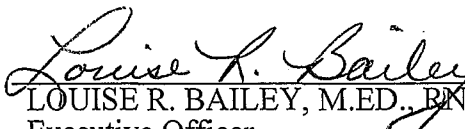
15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
16 and that following the hearing, the Board of Registered Nursing issue a decision:

17 1. Revoking or suspending Registered Nurse License Number 626516 issued to Orilynn
18 Tunacao Giron, a.k.a. Orilynn Giron-Roxas;

19 2. Ordering Orilynn Tunacao Giron, a.k.a. Orilynn Giron-Roxas to pay the Board of
20 Registered Nursing the reasonable costs of the investigation and enforcement of this case
21 pursuant to Business and Professions Code section 125.3;

22 3. Taking such other and further action as deemed necessary and proper.

23
24 DATED: August 18, 2011


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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